

1 means for effecting the system status in response to the electrical
2 control signals, and means for isolating electrical sensing means
3 for effecting the system status.

4 TECHNICAL CORRECTIONS

5 Please make the following technical corrections to the
6 specification:

7 One page 2, line 13, delete --allowing-- and insert the words
8 "to allow".

9 Other technical changes and corrections may be made in the
10 prosecution process.

11 REMARKS

12 In response to the examiner's first action, the applicant has
13 amended its claims in an effort to deal with the objections,
14 rejections and issues raised by the examiner.

15 With respect to the first rejection under 35 U.S.C. § 112,
16 most of the issues raised by the examiner have been dealt with by
17 the amended claims; to the extent that the claims still refer to
18 "the desired rate of flow", the applicant notes that as part of the
19 preamble, there is now a desired rate for the jet nozzles and it is
20 intended that the water rate of flow at the nozzle be adjustable to
21 the desired rate of the user.

22 With regard to the examiner's rejections under 35 U.S.C. § 102
23 and with regard to all claims pertaining to Leonaggeo, it should be
24 clear now with regard to claim 1 that Leonaggeo does not disclose
25 a platform for supporting the treadmill that is affixed at its
26 front end to external lift means as shown in applicant's chain 20
27 attached to motor 30 in Figure 1 of applicants' application. In
28 fact, Leonaggeo teaches otherwise, i.e., teaches to include the

1 lift means within the tank, and not at one end. Applicant
2 respectfully disagrees with the examiner in this regard.
3 Applicants' invention is addressed to the issue primarily of
4 providing external lifting means up and down the end of the tank.
5 As such, the present invention deals with a different situation.
6 In re: Benno, 266 U.S.P.Q. 683 (Fed. Cir 1985). Leonaggeo's lift
7 means in Figure 4 occur within the cylinder structure itself at 100
8 and 108 in Leonaggeo's Figure 4.

9 The amended claims also have now clearly identified the manner
10 in which the treadmill driving means operate in conjunction with
11 the end lift means. It is clear that Leonaggeo does not disclose
12 a commonly used center pivot point that is concentrically located
13 for both the scissor support means and the flexible linkage means
14 for rotating the treadmill.

15 Moreover, inasmuch as anticipation under § 102 requires the
16 presence in a single prior art reference, all of the elements
17 arranged as in the subject claim (Connell v. Sears Roebuck, 222
18 F.2d 1542 (1983)) Leonaggeo does anticipate the claims,
19 particularly as amended.

20 The examiner also cited Leonaggeo in rejection under 35 U.S.C.
21 § 103. Applicant respectfully suggests that the placement of the
22 treadmill driving means in the fashion shown by the invention is
23 not simply a matter of design within the skill of the art.
24 Leonaggeo does not describe any treadmill driving means that
25 utilizes flexible linkages, nor does it address the issue,
26 consequently it would not be obvious in view of Leonaggeo to
27 combine a series of flexible linkages that concurrently utilize the
28 pivot point of the two elongated pivotably connected support

1 members. Not only does Leonaggeo not teach the external end lift
2 means, it does not teach the use of flexible linkage connected at
3 all, let alone in this fashion. In fact, Leonaggeo teaches away
4 from this.

5 The examiner also addresses the adjustable water flow in
6 citing a Section 103 rejection as being unpatentable over Leonaggeo
7 in view of Crandell. However with the amended claims, it should be
8 clear that the entire combination of all elements, including the
9 adjustable water flow rate as determined by electrical power is new
10 and not obvious. Focus should be on the entirety of the claimed
11 invention, not on one part. (Structural Rubber, 749 F.2d 707; In
12 re: Panduitt, 774 F.2d 1082; In re: Gulack, 703 F.2d 1381).

13 Finally, the examiner has rejected certain claims under
14 Section 103 as being unpatentable over Leonaggeo, Jr. in view of
15 Keller et al. and Potash et al. It is respectfully submitted that
16 utilizing three patents together to establish obviousness is in
17 itself in this case evidence of nonobviousness. As indicated
18 earlier, the amended claims include a significant combination of
19 elements not seen before, nor addressed, nor even suggested in
20 combination in the cited patents. The entire combination of the
21 elements are not anticipated nor envisioned, nor would they be
22 obvious, under any one, nor all three, patents of Leonaggeo, Keller
23 and Potash together. (Structural Rubber, supra).

24 Applicant submits at this time the following additional
25 patents for the examiner's consideration:

- 26 1. U.S. Patent No. 3,193,287, Robinson, issued July 6, 1965.
- 27 2. U.S. Patent No. 4,332,217, Davis, issued June 1, 1982.
- 28 3. U.S. Patent No. 4,574,739, Fontaine, issued March 11,

1 1986.

2 4. U.S. Patent No. 4,576,376, Miller, issued March 18, 1986.

3 5. Canadian Patent No. 1,201,342, Hansen, issued March 4,

4 1986.

5 6. U.S. Patent No. 4,712,788, Gaudreau, Jr., issued December
6 15, 1987.

7 7. U.S. Patent No. 4,944,506, Keller, et al, issued July 31,
8 1990.

9 8. U.S. Patent No. 4,776,581, Shepherdson, issued October
10 11, 1988.

11 9. U.S. Patent No. 4,419,776, Schmidt, issued December 13,
12 1983.

13 10. U.S. Patent No. 4,295,929, Weisz, issued March 22, 1994.

14 11. U.S. Patent No. 4,378,213, Quint, issued January 3, 1995.

15 Applicant does not believe the patents anticipate nor render
16 obvious any of the previous or amended claims.

17 Applicant respectfully requests that the examiner consider the
18 amended claims and allow the application to pass. The applicant
19 also requests a telephone interview to discuss this response and
20 the examiner's comments.

21
22 Date: 7/26/96

Respectfully submitted,

23 WRIGHT, HENSON, SOMERS, SEBELIUS,
24 CLARK & BAKER, LLP
25 Commerce Bank Building Downtown, 2nd Floor
26 100 E. 9th Street, P. O. Box 3555
27 Topeka, Kansas 66601-3555
28 (913) 232-2200

By Bruce J. Clark

Bruce J. Clark, #31,339

1 CERTIFICATE OF MAILING

2 I hereby certify that this Response to Office Action, is being
3 deposited with the United States Postal Service as first class mail
4 in an envelope addressed to:

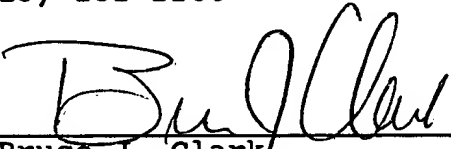
5 Commissioner of Patents and Trademarks
6 Box DAC
Washington, D.C. 20231

7 on July 26th, 1996.

8
9 WRIGHT, HENSON, SOMERS, SEBELIUS,
CLARK & BAKER, LLP
10 Commerce Bank Building Downtown, 2nd Floor
11 100 E. 9th Street, P. O. Box 3555
Topeka, Kansas 66601-3555
12 (913) 232-2200

13 Date: 7/26/96

14 By


15 Bruce J. Clark
16 Registration No. 31,339

17 Doc #100284
18
19
20
21
22
23
24
25
26
27
28